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Docket Number OFFICE OF THE CLERK
United States Supreme Court

John W. Marsh,)
Petitioner/Appellant,)
)
Vs.)
)
Commissioner of Internal Revenue)
Service,)
Respondent/Appellee.)
_____)

On Petition for Writ of Certiorari to the United States Court of Appeals for the 9th Circuit.

No. 0071137
IRS No. 27202-96
Petition for Writ of Certiorari

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Pro Se_

9pp

Question Presented for Review: Does the jurisdiction of the U.S. taxing laws extend to persons or over territories simply on the basis of default, i.e., by the U.S. government's failure or refusal to recognize a nation/state, may it automatically extends its own taxation jurisdiction over the person or territory of that state?

Parties to the Proceeding:

I, John W. Marsh, am the Appellant. I am an individual and not a corporate entity.

Commissioner of Internal Revenue Service is the Appellee.

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APPENDIX:

Memorandum Decision of the 9th Cir. Ct of Appeals I

Decision of the United States Tax Court II

Citation of the opinion entered: Memorandum Decision, 9th Circuit Court of Appeals, Appendix 1

A concise statement of the basis for jurisdiction: The 9th Circuit Court of Appeals filed its memorandum opinion on January 24, 2002. The Supreme Court's jurisdiction to review this decision on a writ of certiorari arise from Article III, §1 and §2 in that the judicial power of the United States is vested in the Supreme Court, which power extends to all cases, in law and equity, arising under this U.S. Constitution, the Laws of the United States, and Treaties made, and to controversies to which the United States is a party.

The statutory basis for review is found at 26 U.S.C. §7482, Courts of Review, and at 28 U.S.C. §1254, Courts of Appeals; Certiorari.

Concise statement of the case: The 9th Circuit Court of Appeals jurisdiction in this case is found at 26 U.S.C. §7482.

This matter presents a singular issue - **Is there a legitimate basis for jurisdiction of U.S. taxing laws over myself, simply on the grounds that the U.S. does not now recognize the existence of my Hawaiian nation, or must there be an affirmative basis for jurisdiction?**

The 9th Circuit Court of Appeals has reacted in a knee-jerk defensive manner, immediately casting me into the traditional "tax protester" and "Hawaiian activist" category of individuals, thereby refusing to give proper consideration to my arguments and disposing of my case by branding it "frivolous" citing *United States v. Lorenzo, 995 F.2d 1448, 1456 (9th Cir. 1993)."*

In *Lorenzo*, the court held, "The appellants (Lorenzo & Brown) have presented no evidence that the Sovereign Kingdom of Hawaii is currently recognized by the federal government or that they have received any immunity arising from the existence of the Kingdom." at p. 1456 On that basis, the *Lorenzo* court assumed personal jurisdiction over the defendants.

This "jurisdiction by default" reasoning is unsupported in law or common sense. The recognition by the federal government of the existence or non-existence of a nation does not affect the question of jurisdiction for U.S. tax purposes. Jurisdiction is not conveyed through the absence of an existing internationally recognized state. The U.S. did not assume personal or territorial jurisdiction over the nationals of the Republic of China in the years its foreign policy refused to recognize that state. Nor did it assume personal or territorial jurisdiction of the nationals of Afghanistan simply by its refusal to recognize the Taliban government. Nor does it assume jurisdiction over a stateless person drifting in the open sea beyond U.S. territorial borders simply because that person is stateless. Jurisdiction can be extended only on specific basis, i.e., personal due to nationality or citizenship, territorial in that the individual is found in the legitimate territory of the state, or subject matter for which taxation is not appropriate.

The government can only take jurisdiction affirmatively. In this case, it has relied on the federal government's absence of recognition of Hawaii, and thus tries to take jurisdiction by default.

The IRS has failed to rebut any of my historical and contemporary facts introduced in the trial showing that Hawaii's annexation to the United States was illegitimate. It had simply relied on the Lorenzo decision as precedent. That case followed erroneous reasoning.

The *Lorenzo* case also dealt with the matter of sovereign immunity asserted by Mr. Lorenzo, as a diplomat of Hawaii. The law of diplomatic immunity would of course require the U.S. government to recognize the existence of the Hawaiian nation-state as a prerequisite to according him diplomatic immunity under U.S. law. Mr. Lorenzo failed to show such recognition. I make no such claim of sovereign immunity, and therefore, my case is inapposite to Lorenzo's on that point.

Argument amplifying the reasons relied on for allowance of the writ.

The reliance on the *Lorenzo* case and its rule regarding jurisdiction by default is bad precedent and may lead to more trouble than immediately meets the eye. If this reasoning persists, its implication is that any state may claim jurisdiction of any individual or activity within a territory of another state, simply by its refusal to recognize the legitimacy of that other state, for however short a period of time. Such a practice would constitute a breach to international laws and customs and set bad public policy.

The *Lorenzo* decision constitutes a far departure from the accepted and usual understanding of the law of jurisdiction. This Court's supervisory power should be enforced to give correction to this course of action.

Dated: Wai`anae, Hawai`i April 18, 2002.

John W. Marsh, Appellant Pro Se

FILED

JAN 24 2002

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN W. MARSH, Petitioner, v. COMMISSIONER OF INTERNAL REVENUE, Respondent.	No. 00-71137 IRS No. 27202-96 MEMORANDUM*

Appeal from the United States Tax Court

Submitted January 14, 2002**

Before: KLEINFELD, HAWKINS and SILVERMAN, Circuit Judges.

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

John W. Marsh appeals pro se the Tax Court's decision sustaining the ommissioner of Internal Revenue's determination of income tax deficiencies gainst him for tax years 1986 through 1995.

The Tax Court properly determined that Marsh is a taxpayer and that the ompensation he received is subject to federal income tax. *In Re Becraft*, 885 .2d 547, 548 (9th Cir. 1989). Marsh's argument, that he is not a citizen of the nited States, but of "the Nation of Hawaii" and that the United States therefore as no jurisdiction over him, is frivolous. *United States v. Lorenzo*, 995 F.2d 448, 1456 (9th Cir. 1993). Accordingly, the tax court's judgment is affirmed.

AFFIRMED.

UNITED STATES TAX COURT

JOHN W. MARSH,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Docket No. 27202-96

DECISION

Pursuant to the opinion of the Court filed January 11, 2000, and incorporating herein the facts recited in the respondent's computation as the findings of the Court, it is

ORDERED AND DECIDED: That there are deficiencies in income tax and additions to tax due from the petitioner as follows:

		Additions to Tax					
Year	Deficiency	Sec. 6651 (a)(1)	Sec. 6651(f)	Sec. 6653 (b)(1)(A)	Sec. 6653 (b)(1)	Sec. 6653 (b)(1)(B)	Sec. 6654
1986	$20,509.00	---	---	$15,449.00	---	-1-	---
1987	45,436.00	---	---	34,077.00	---	-2-	$2,791.00
1988	44,870.00	---	---	---	$33,653.00	---	2,542.00
1989	95,948.00	---	$67,628.00	---	---	---	6,055.00
1990	40,064.00	$8,650.00	---	---	---	---	2,238.00
1991	14,052.00	1,961.00	---	---	---	---	412.00
1992	91,232.00	21,592.00	---	---	---	---	3,427.00
1993	20,040.00	4,896.00	---	---	---	---	818.00
1994	3,515.00	879.00	---	---	---	---	182.00
1995	3,371.00	843.00	---	---	---	---	186.00

1- 50 percent of the interest due on $15,427.00
2- 50 percent of the interest due on $40,209.00

(Signed) Robert P. Ruwe

Judge.

Entered: MAY 2 4 2000

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